

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER NO. 82-63

NPDES NO. CA0028711

WASTE DISCHARGE REQUIREMENTS FOR:

International Disposal Corp. of California and Browning - Ferris Industries
Newby Island Class II-2 Solid Waste Disposal Site San Jose, Santa Clara County

The California Regional Water Quality Control Board, San Francisco, Bay Region
(hereinafter called the Board) finds that:

1. International Disposal Corp. of California (a wholly owned subsidiary of Browning - Ferris Industries, Inc.) hereinafter called the discharger, operates and maintains the Newby Island Solid Waste Disposal Site. On April 15, 1975 the Board adopted Order No. 75-22 for areas #1 and #2 (See Finding 4 below) of the disposal site. The Order was adopted with the assumption that the U.S. Army Corps of Engineers would address the wetland issue in area #2 under Section 404 of the Federal Water Pollution Control Act. On June 16, 1982 the Board adopted Order No. 82-41 which provided revised requirements for Area #1 of the disposal site (see Finding 4 below). The Order also found that all or portions of area #2 is waters of the United States and wetlands and prohibited filling of that area until the discharger provided appropriate mitigation.
2. The Board finds that 33.5 acres in area #2 (see attachment C) are waters of the United States and wetlands and subject to an NPDES Permit pursuant to Section 402 of the Clean Water Act.
3. The discharger filed an application for an NPDES permit for appropriate portions of area #2 (see Finding 2) on September 16, 1982.
4. The Newby Island solid waste disposal site is located within the city limits of San Jose in Santa Clara County as shown in Attachments A, B, and C incorporated herein and made a part of this order. As shown in Attachment B the site is composed of two sections: the easterly section (#1) is the presently active portion of the landfill; and the westerly section (#2) is the area into which landfill operations will be expanded. On July 15, 1975 the operator submitted a plan of operation for filling of the entire site (areas 1 and 2). However, this plan does not provide a complete description of the proposed site preparation prior to filling or the specific fillarea sequence to be followed.

5. Newby Island was reclaimed from tidal marshland in the late 1800's by construction of a perimeter dike system. The island was in agricultural use as orchard and pasture land until filling commenced in 1930; however those portions of the site not used for disposal continued to be used for pasture until 1972. The site was operated as an open burning dump until 1956, at which time the operation was converted to a modified sanitary landfill. Some of the perimeter levees of area #2 have had waste material deposited inboard of the levees and cannery waste has been disced in area #2 prior to the 1970's.
6. A site evaluation for Newby Island has been submitted in the form of a report by Emcon Associates dated September 21, 1972, entitled, "Geotechnical Investigation and Waste Management Studies, Proposed Class II-1 Disposal Site, Newby Island, San Jose, California." Additional geotechnical information has been submitted in the report entitled "Stability Evaluation - Newby Island Sanitary Landfill" by Purcell, Rhodes and Associates, dated November 29, 1979. Leachate control and monitoring information was submitted in a report, entitled "Preliminary Excavation Plan - Southern Area", by Purcell, Rhodes and Associates, dated April 1982.
7. The site is on a low lying, flat portion of the Bay Plain bordering the southern limits of San Francisco Bay. Coyote Creek borders the site on the northeast. The area near the site includes alluvial cones and fans but the major portion of Newby Island is underlain by considerable thickness of clay soils. Granular, shallow stream channel deposits exists in the southern portion of the site at depths of approximately 8 to 20 feet. The only useable groundwater or significant quantity occurs at approximately 300 feet below the site below extensive clay deposits. Shallow perched water exists on the site at depths of 2 to 3 feet, but the water is of brackish quality. If deposition of waste is proposed below ground surface then the high groundwater and permeable deposits must be considered in the development and approval of any plan to minimize leachate generation and preclude leachate migration.
8. The beneficial uses of groundwaters adjacent to the site are domestic and industrial water supply. The beneficial uses of the wetlands identified in Finding 2 in area #2 are:

Habitat and resting for waterfowl and migratory birds
Esthetic enjoyment

The beneficial uses of the waters of Coyote Creek, Mud Slough and San Francisco Bay are:

Habitat and resting for waterfowl and migratory birds
Fish Habitat
Recreation, including swimming
Navigation
Esthetic enjoyment

9. This disposal site upon documented completion, as required in Provision C.3 of this Order, of any required improvements and prior to any waste disposal, the portion of the site being filled covered by these requirements will meet the criteria contained in the California Administrative Code, Title 23, Chapter 3, Subchapter 15, for classification of the site as a Class II-2 disposal site to receive Group 2 waste and Group 3 wastes.
10. The Regional Board adopted a revised Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) on July 21, 1982 and this Order implements the water quality objectives stated in that plan.
11. The Board has notified the discharger and interested agencies and persons of its intent to prescribe waste discharge requirements for the discharge into the wetlands portions of area #2 and has provided them with an opportunity for a public hearing and an opportunity to submit their written view and recommendations.
12. The Board, in a public hearing held on November 17, and December 15, 1982, heard and considered all comments pertaining to the discharge.
13. This project is exempt from the provisions of Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code (CEQA) in accordance with Water Code Section 13389.
14. The U.S. Army Corps of Engineers has determined that approximately 3.9 acres of area #2 are navigable waters of the United States and therefore subject to a Corps Permit, pursuant to Section 10 of the River and Harbour Act of 1899. The Corp has further determined that the proposed discharge of solid waste to area #2 does not require a Corp permit under section 404 of the Clean Water Act as the waste does not constitute "fill material".
15. In a public hearing held on November 17, 1982 the discharger submitted a proposal to mitigate the adverse impacts of filling wetland portions of area #2 (see Finding #2). The proposed mitigation consists of the following:

The discharger agrees to acquire and dedicate to a suitable public agency 22 acres of offsite area or areas acceptable to the Regional Board. The purchase and enhancement costs are not to exceed \$5000 per acre.

If a suitable proposal for acquisition and dedication of off-site area or areas within the price range stated above is not submitted by the discharger and found acceptable by the Regional Board prior to August 1, 1983, \$110,000 will be placed in an appropriate trust fund which is approved by the Executive Officer for the purchase of suitable and acceptable wetlands when it becomes available.

The Board has received and reviewed comments on this proposal from the California Department of Fish and Game, the U.S. Fish and Wildlife Service and other interested persons and public agencies.

This proposal is acceptable to the Board as appropriate mitigation of the adverse impacts on water quality and beneficial uses incident to this project.

16. In Order to be assured that the mitigation proposal described in Finding 15 above is implemented the Board finds that the funds to complete the mitigation proposal be irrevocably committed prior to the start of filling the portion of area #2 covered by this Order.
17. The amount of mitigation accepted by the Board for the loss of 33.5 acres of wetlands is based on all the evidence presented in this particular case and shall not be considered precedent for other projects. The Board took into special consideration the site characteristics and history, prior Board approvals for this site, and the urgent public need for solid waste disposal in this area of the region.
18. This NPDES Permit is for a sanitary landfill which is a non-guideline industry. The prohibitions, specifications and provisions of this Permit are based on best professional judgement in order to implement the Federal Water Pollution Control Act, the Water Quality Control Plan for the San Francisco Bay Basin and the California Administrative Code regulations pertaining to sanitary landfills. The prohibitions, specifications and provisions are site specific to the discharger's proposal to utilize a specific area as a sanitary landfill. Therefore this NPDES permit implements Best Available Technology for the portions of area #2 covered by this Order of the Newby Island Class II-2 Solid Waste Disposal Site.
19. The disposal areas covered by this Order are, in part, surrounded by disposal areas covered by a separate Order. The Board finds that the discharger may demonstrate compliance with the Prohibitions and Specifications of this Order by providing appropriate facilities around the portion of area #2 covered by this Order or around the entire area #2 covered by this Order and Order No. 82-64. Such demonstration shall be made prior to any waste disposal in the portion of area #2 covered by this Order.

IT IS HEREBY ORDERED, that the discharger and any other persons that own the land or operate area #2 of this landfill, shall meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder and the provisions of the Federal Water Pollution Control Act and regulations and guidelines adopted thereunder, and shall comply with the following:

A. Prohibitions

1. The disposal of wastes shall not create a pollution or nuisance as defined in Section 13050(1) and (m), respectively of the California Water Code.
2. Group 2 wastes shall not be placed in or allowed to contact ponded water from any source whatsoever, nor shall Group 2 wastes be disposed of in any position where they can be carried from the disposal site and discharged into waters of the State or the United States which are outside of the authorized disposal area #2.
3. Group 1 wastes and hazardous wastes shall not be deposited or stored at this site.
4. Liquid Group 2 wastes or high moisture content Group 2 waste shall not be discharged, except at the expressed written approval of the Executive Officer and then, only upon demonstration by the discharger that such disposal will not adversely affect the ability of the site to contain wastes and leachate.
5. The discharger shall remove and relocate any wastes which are discharged at this site in violation of these requirements.
6. Leachate from Group 2 wastes and ponded water containing leachate or in contact with refuse shall not be discharged to waters of State or the United States outside of the authorized disposal area #2.
7. The discharge of wastes to those areas identified by the U.S. Army Corps of Engineers as subject to a Section 10 permit is prohibited until the Corps issues such a permit.
8. The disposal of wastes into the portions of area #2 covered by this order is prohibited until the Executive Officer approves in writing a report submitted by the discharger that documents to the Executive Officer's satisfaction compliance with Board Findings 16 and 19 of this Order.

B. Specifications

1. Water used during disposal site operations shall be limited to a minimal amount necessary for dust control and fire suppression.
2. The disposal area shall be protected from any washout or erosion of wastes or covering material, and from inundation, which could occur as a result of a 100 year storm.

3. Surface drainage from tributary areas, and internal site drainage from surface or subsurface sources shall not contact or percolate through Group 2 wastes during disposal operation and for the active life of the site. The perimeter drainage ditches and all other facilities shall be designed to convey the 100 year storm runoff, and withstand differential settlement. These facilities shall be constructed over a natural ground or through lined channels or pipes.
4. For waste fill above the maximum level of regional groundwater, vertical and lateral hydraulic continuity with useable groundwater shall be prevented by the presence of a natural clay barrier of at least 5 feet in thickness and a permeability of 1×10^{-6} cm/sec or less on the bottom and sides of disposal areas. If such a natural condition does not exist, an artificial barrier shall be constructed to meet the above specifications.
5. For Group 2 wastes placed below the maximum level of the regional groundwater table the deposited wastes shall be isolated from groundwaters by the construction of a leachate barrier and/or leachate collection system. Leachate levels shall be maintained below the level of regional groundwater at all times, such that the quality of all waters of the State are protected. The methods to be used to provide this isolation shall be submitted by the discharger at least 45 days prior to start of construction. Executive Officer approval of the report shall be obtained in writing prior to commencement of filling.
6. As portions of the site are closed, the exterior surfaces shall be graded to a minimum slope of three percent in order to promote lateral runoff of precipitation and to minimize infiltration of precipitation. In addition, all completed disposal areas shall be covered with a minimum of three feet of uncontaminated material one foot of which is compacted to attain a permeability no greater than 1×10^{-6} cm/sec. A lesser slope, thickness of final cover or permeability may be allowed by the Board upon demonstration that erosion control, percolation control, and coverage of refuse will not be adversely affected. This demonstration shall be part of a site closure plan.
7. The migration of methane gas from the landfill area shall be controlled as necessary to prevent the creation of a nuisance.
8. The discharge of waste shall not cause the following conditions to exist in waters of the State at any place outside of the authorized disposal area #2:
 - a. Surface Waters
 - . Floating, suspended, or deposited macroscopic particulate matter or foam;
 - . Bottom deposits or aquatic growths;

- . Alteration of temperature turbidity, or apparent color beyond present natural background levels;
- . Visible, floating, suspended or deposited oil or other products or petroleum origin.
- . Toxic or other deleterious substances to be present in concentrations or quantities which will cause deleterious effects on aquatic biota, wildlife or waterfowl, or which render any of these unfit for human consumption either at levels created in the receiving waters or as a result of biological concentrations.

b. Groundwater

The useable groundwater shall not be degraded as a result of the solid waste disposal operation.

9. The discharger shall insure that slope stability of this site is maintained under conditions generated during maximum probable earthquake.

C. Provisions

1. For area (#2) the discharger shall comply with all prohibitions and specifications of this Order prior to the commencement of fill operations except for B.7.
2. The discharger shall comply with Specifications B.7. by submitting a plan with a timeschedule by March 31, 1983 or commencement of waste filling, whichever is later, to monitor the migration of methane gas from this disposal site.
3. The discharger shall submit a technical report at least 45 days prior to planned commencement of fill operations in area #2 documenting compliance with all prohibitions and specifications which includes a filling plan. This report, if acceptable, shall be approved by the Executive Officer prior to the commencement of fill operations.
4. The discharger shall submit to the Board a site closure plan for the portions of area #2 covered by this Order within one year of commencing fill operations. These plans shall conform to this Board's Resolution 77-7 and the State Water Resources Control Board closure requirements contained in Section 2553.1 and 2553.2 of the California Administrative Code. The plan shall include a slope stability analysis demonstrating that, during filling operations and after it is closed, the site will comply with Specification B.9.

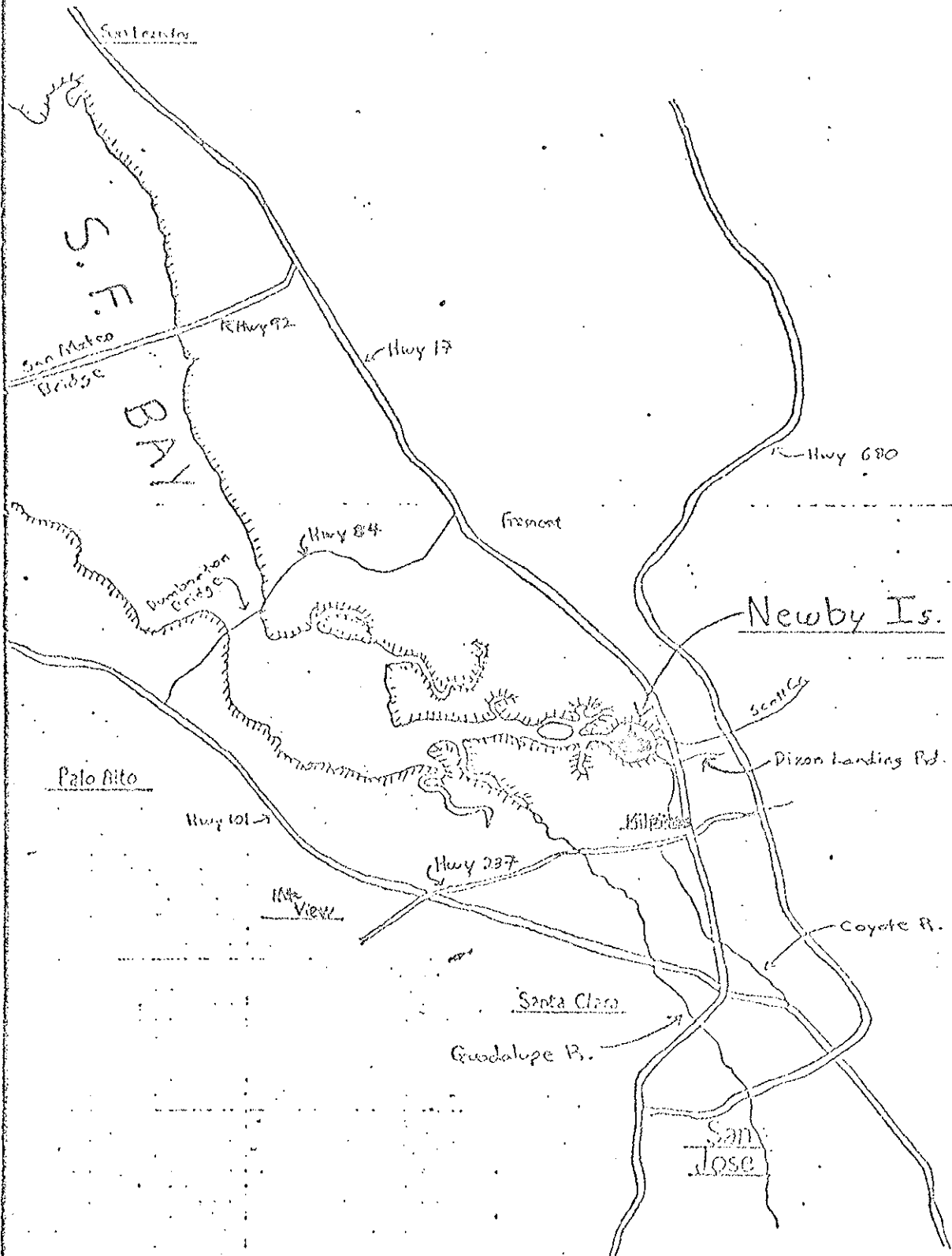
5. Reports submitted pursuant to Provisions C.2., C.3., and C.4., shall be prepared under the supervision of a registered engineer or certified engineering geologist.
6. The discharger shall file with this Board a report of any material change or proposed change in the character, location or quantity of this waste discharge. For the purpose of these requirements, this includes any proposed change in the boundaries, contours or ownership or the disposal area(s).
7. The discharger shall maintain a copy of this Order at the site so as to be available at all times to site operating personnel.
8. This Board considers the property owner and site operator to have a continuing responsibility for correcting any problems within their reasonable control which arise in the future as a result of this waste discharge or water applied to this property during subsequent use of the land for other purposes.
9. The discharger shall file with the Board technical reports on self-monitoring work performed according to the detailed specifications contained in any Monitoring and Reporting Program which may be directed by the Executive Officer.
10. The discharger shall permit the Regional Board:
 - (a) Entry upon premises on which waste are located or in which any required records are kept, (Regional Board staff should be accompanied by BFI personnel)
 - (b) Access to copy any records required to be kept under terms and conditions of this Order,
 - (c) Inspection of monitoring equipment or records, and
 - (d) Sampling of any discharge.
11. This Order expires on December 25, 1987 and the discharger must file a report of waste discharge in accordance with Title 23, Chapter 3, Subchapter 9, of the California Administrative Code not later than 180 days in advance of such expiration date as application for issuance of new waste discharge requirements if the site continues to be Waters of the United States.
12. This Order shall serve as a National Pollutant Discharge Elimination System permit pursuant to Section 402 of the Federal Water Pollution Control Act or amendments thereto, and shall become effective 10 days after date of its adoption provided the Regional Administrator, Environmental Protection Agency, has no objection. If the Regional Administrator objects to its issuance, the permit shall not become effective until such objection is withdrawn.
13. The discharger shall implement the mitigation proposal described in Finding 15.

14. This permit does not authorize commission of any act causing injury to the property of another or of the public, does not convey any property rights, does not remove liability under federal, state or local laws and does not authorize the discharge of waste without appropriate federal, state or local permits, authorizations or determinations.

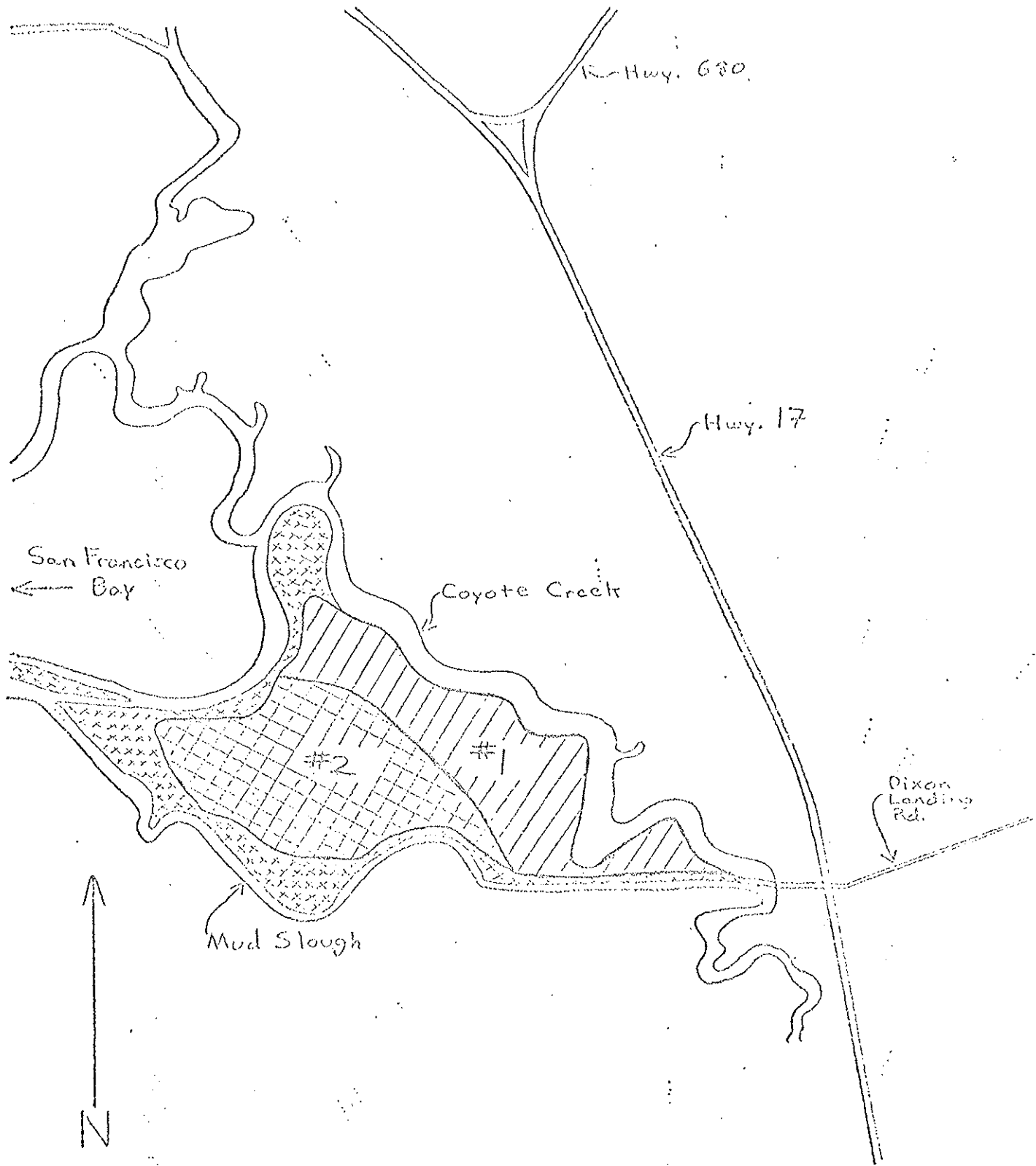
I, Fred H. Dierker, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on December 15, 1982.

FRED H. DIERKER
Executive Officer

Attachments:
A, B and C

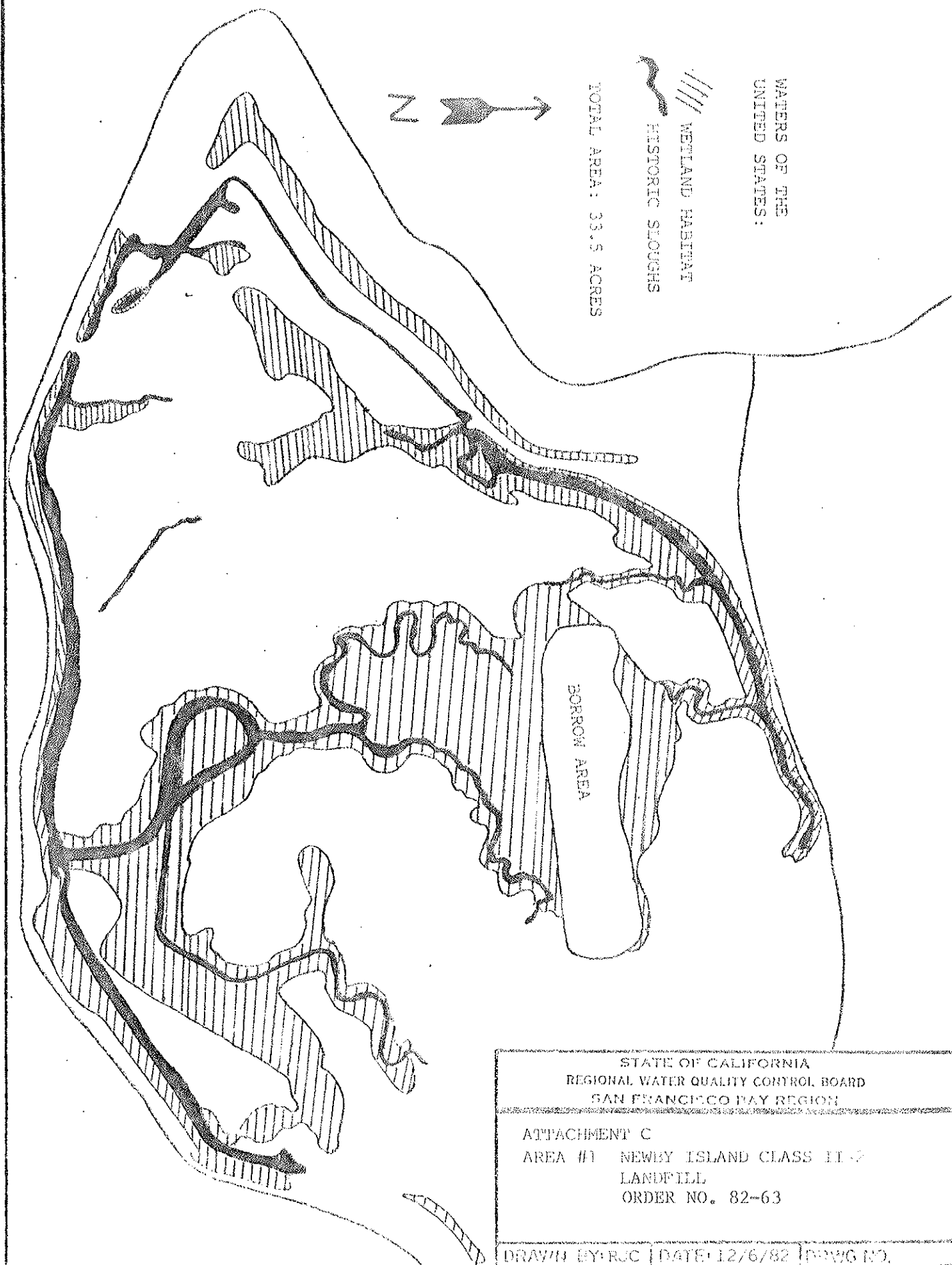


STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO REGION
Newby Island - International Disposal
Corp. of California
Class II-2 Solid Waste Disposal Site
Attachment A ORDER NO. 82-63
DRAWN BY: [PWJ] DATE: 5/14/82



- xxxx = Marsh exterior
of perimeter levee
- //// = Active area (#1)
- ### = Proposed expansion (#2)

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION
NEWBY ISLAND
CLASS II-2 LANDFILL
ATTACHMENT B ORDER NO. 82-63
DRAWN BY: PWT DATE 10/16/82



STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ATTACHMENT C
AREA #1 NEWBY ISLAND CLASS II-2
LANDFILL
ORDER NO. 82-63

DRAWN BY: RJC DATE: 12/6/82 DWG NO.